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TAMIL NADU GOVERNMENT GAZETTE

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No. 294] CHENNAI, MONDAY, SEPTEMBER 18, 2017
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Part II—Section 1

Notifications or Orders of specific character or of particular interest to the public issued by Secretariat Department.

NOTIFICATIONS BY THE LEGISLATIVE ASSEMBLY SECRETARIAT

BEFORE THE HON'BLE SPEAKER

TAMIL NADU LEGISLATIVE ASSEMBLY, CHENNAI – 600 009

DISQUALIFICATION OF CERTAIN PERSONS FROM MEMBERSHIP OF TAMIL NADU LEGISLATIVE ASSEMBLY

[Letter No. 10908/2017-1/TNLAS (B.III), dated 18th September 2017.]

No. II(1)/LAS/27(g)/2017.

The following decision, dated the 18th September 2017 of the Hon. Speaker of the Tamil Nadu Legislative Assembly given under paragraph 6 of the Tenth Schedule to the Constitution of India is hereby notified and published:—

S. Rajendiran, M.L.A.,
Chief Government Whip,
All India Anna Dravida Munnetra Kazhagam,
No.222, Venkattaramanapuram Post,
Thamaraikulam, Kallankurichi (via),
Ariyalur District-621 705.—*Petitioner*

Versus

1. Thiru. Thangatamilselvan, M.L.A.,
Andipatti Constituency.
No.1/102, North Thanneer Thotti Street,
Thendral Nagar, Narayanathevanpatti,
Uthamapalayam Taluk,
Theni District - 625 521

2. Thiru. R. Murugan, M.L.A.,
Harur Constituency
Samuthra Illam,
No.7/556, Govindasamy Nagar,
Ashoka Lathe Pattarai Backside,
Harur, Dharmapuri District-636 903.

3. Thiru. S. Mariappan Kennady, M.L.A.,
Manamadurai Constituency
No.101-B, Maravar Street,
Melkarai,
Manamadurai Post and Taluk,
Sivagangai District – 630 606.

4. Dr. K. Kathirkamu, M.L.A.,
Periyakulam Constituency,
No.39, Sriram Nagar,
Theni District – 625 531.

5. Tmt. C. Jayanthi Padmanabhan, M.L.A.,
Gudiyattam Constituency,
Panneerkuttai Village,
Nariyambut Post,
Pernampattu Taluk,
Vellore Distict – 635 808.

6. Thiru. P. Palaniappan, M.L.A.,
Pappireddipatti Constituency,
Door No.2-285/380,
Molaiyanur Village and Post,
Pappireddipatti Taluk,
Dharmapuri Distict – 636 904.

7. Thiru. V. Senthilbalaji, M.L.A.,
Aravakurichi Constituency,
No.123, Rameswarapatty,
Manmangalam Village and Taluk,
Karur District – 639 006.

8. Dr. S. Muthiah, M.L.A.,
Paramakudi Constituency,
No.3-845-A3, Bharathi Nagar Main Road,
Paramakudi Town and Taluk,
Ramanathapuram District – 623 707.

9. Thiru. P. Vetriivel, M.L.A.,
Perambur Constituency,
No.24, Divanbhahdur Shanmugam Street,
A.K. Samy Nagar,
Secretariat Colony,
Kilpauk, Chennai – 600 010.

10. Thiru. N.G. Parthiban, M.L.A.,
Sholingur Constituency,
No.30, Sengunthar Periya Street,
Sholingur,
Wallajah Taluk,
Vellore District – 631 102.

11. Thiru. M. Kothandapani, M.L.A.,
Thiruporur Constituency,
No.19/A, Othavadai Street,
Mamallapuram,
Kanchipuram District – 603 104.

12. Thiru. T.A. Elumalai, M.L.A.,
Poonamallee Constituency,
No.345, Kulakkarai Street,
Anna Nagar, Thanneerkulam,
Kakkalur Post,
Tiruvallur Taluk and District.

13. Thiru. M. Rengasamy, M.L.A.,
Thanjavur Constituency,
MalayarNatham,
N.V. Kudikadu Post,
Papanasam Taluk,
Thanjavur District.

14. Thiru. R. Thangathurai, M.L.A.,
Nilakottai Constituency,
No.26, Nakkalloothu Village,
Nilakottai,
Dindigul District – 624 208.

15. Thiru. R. Balasubramani, M.L.A.,
Ambur Constituency,
No.8, Govindhapuram,
Gangapuram Post, Ambur,
Vellore District – 635 802.

16. Thiru. Ethirkottai S.G. Subramanian, M.L.A.,
Sattur Constituency,
No.1/9, MelaTheru,
Ethirkottai,
Vembakkottai Taluk,
Virudhunagar District.

17. Thiru. S.T.K. Jakkaiyan, M.L.A.,
Cumbum Constituency,
No.4/815-4, Mahalakshmi Nagar,
Kannanenthal Road,
Iyer Bungalow,
Madurai – 625 014.

18. Thiru R. Sundaraj, M.L.A.,
Ottapidaram Constituency,
No.9/237, Anna Salai,
Muppulivetti,
Ottapidaram Taluk and Post,
Thoothukudi District – 628 401.

19. Tmt. K. Uma Maheswari, M.L.A.,
Vilathikulam Constituency,
No.28/13/417, Krishnan Kovil Street,
Ettayapuram,
Vilathikulam Taluk,
Tuticorin District – 628 902.—*Respondents*

ORDER

1. This matter arises under Paragraph 2 (1) (a) of the Tenth Schedule to the Constitution of India, which deals with the provisions as to disqualification on the ground of defection, read with the Members of the Tamil Nadu Legislative Assembly (Disqualification on Ground of Defection) Rules, 1986 (hereinafter called Rules).

Petition filed before me:

2. Thiru. S. Rajendiran, M.L.A., Chief Government Whip, All India Anna Dravida Munnetra Kazhagam (in short, "AIADMK"), has presented a petition to me on the 24th day of August, 2017 praying for disqualification of membership of 19 members, the Respondents herein, elected as candidates of AIADMK party to the Tamil Nadu Legislative Assembly, who have contested under the "Two-Leaves" symbol and are members of AIADMK Legislature party.

3. The petitioner in the petition has stated that he is an M.L.A. elected to the Tamil Nadu Legislative Assembly and is the Chief Government Whip and that he is entitled to prefer this petition under Rule 6 of the Rules. The petitioner further states that in the meeting held on 14th February, 2017 of the AIADMK Legislature party,

the respondents along with 103 other AIADMK members had elected Thiru. Edappadi K. Palanisamy as the Leader of the AIADMK Legislature party by an unanimous resolution and Thiru. Edappadi K. Palanisamy was sworn in as the Chief Minister and had formed the Government which is carrying on the administration of the State of Tamil Nadu. On 22ndAugust, 2017, media had reported about a petition having been given by the respondents herein, (MLAs), to the Hon'ble Governor of Tamil Nadu making allegations against Hon. Thiru. Edappadi K. Palanisamy, the Chief Minister. A copy of the letter circulated to the media was annexed as Annexure-I to the Petition and is referred to as Ex.P1. All the respondents had separately written identical letters to the Hon'ble Governor of Tamil Nadu making allegations against the present Chief Minister. The petitioner had further stated that the respondents herein who are members of AIADMK party, in their letter to the Hon'ble Governor had chosen to withdraw their support to the Chief Minister.

4. The petitioner further submited that, a few of the respondents have met the Press/Media and given elaborate statements thereafter. In their statements to the media, they claimed to have withdrawn their support to the Chief Minister. Copy of the newspaper articles carrying the said news item were filed collectively as Annexure-II, which is referred as **Ex.P2.** According to the petitioner, they have not abided by rules and regulations of AIADMK party. Even though the respondents claimed to have not given up their membership, their act expressly amounts to voluntarily giving up of their membership of AIADMK party and would amount to disqualification on the ground of defection as envisaged under the Tenth Schedule to the Constitution of India, read with the Rules. According to the petitioner, though the respondents have made claims of corruption and favouritism, the Respondents had given the said representation to the Hon'ble Governor because the Chief Minister had chosen to include Thiru O.Panneerselvam and Thiru K.Pandiarajan as Ministers in his cabinet. The Petitioner had therefore claimed that the respondents were seeking to make allegations against the Chief Minister with ulterior motives and had embraced a different ideology from that of the AIADMK Party. The Respondents, according to the Petitioner, ought to have approached the Party instead of making false claims before the Constitutional Head of the State. The manner in which the Respondents had addressed their representation to the Hon'ble Governor according to the petitioner would only go to show that they had disassociated themselves from the Party and had voluntarily given up their membership of the Party.

The relief prayed for in the petition reads thus:

"In the light of the above, it is humbly prayed that the above members may be disqualified from the membership of the Tamil Nadu Legislative Assembly with immediate effect under Tenth Schedule to the Constitution of India and the Members of the Tamil Nadu Legislative Assembly (Disqualification on Ground of Defection) Rules,1986 and suitable orders be passed in the interest of justice."

5. Upon receiving the said Petition, I had caused the same to be forwarded to all the 19 Respondents under Rule 7 (3) (a) of the Rules. I had also forwarded the same to the Leader of the Legislative Party concerned, Hon. Thiru Edappadi K.Palanisamy under Rule 7 (3) (b) of the Rules. The Petitions were forwarded on the same day that they were received.

Reply Statements filed by the Respondents:

6. On 30th August 2017, all the 19 Respondents filed individual interim replies to the notices issued by me. These replies are more or less identical excepting in the case of 4 Respondents. The additional allegations by these four respondents have been incorporated by the other respondents in their further pleadings. The allegations made commonly in all the 19 Reply statements are briefly as follows:

i. The Petition given by Thiru S.Rajendiran was not in compliance with Rule 6(5)(b) of the Rules inasmuch as Ex-P1 was improper documentary evidence bearing no name of the person submitting the representation or his signature.

ii. The Petition does not fall within the ambit of Para 2(1) (a) of the Tenth Schedule inasmuch as the Respondents did not voluntarily give up their Membership of their Political Party by merely submitting a representation to the Governor.

iii. The representation given by the Respondents was legal and is backed by precedent laid down by Hon'ble Supreme Court in *Balachandra L.Jarikholi & Others v. B.S.Yediyurappa & Others reported in (2011) 7 SCC 1.*

iv. The action of the Speaker is biased inasmuch as Thiru O.Paneerselvam, who openly accused the Government was rewarded with the post of Deputy Chief Minister whereas the Respondents are facing charges of defection under the Rules.

v. The Petition is only to increase the majority in the Legislative Assembly by reducing the number of members through disqualification.

vi. The Petitioner is not the Chief Government Whip and as such he could not have given the complaint.

vii. Further, the 4 Respondents in their reply questioned about their petition given under Rule 6 of the Rules against some members.

7. Apart from the above submissions- which according to the Respondents vitiated the entire proceeding due to reasons of malafides, bias, procedural irregularities and want of jurisdiction- the Respondents had also made submissions replying to each of the paragraphs in the Petition. The sum and substance of such submissions was that the Respondents had not given up his/her Membership of the AIADMK Party and that the representation given to the Governor was only due to the dissatisfaction with the acts of the Chief Minister. Finally, in the interim reply all the Respondents had sought for the following:

(1) To grant adjournment and grant further time to give detailed explanation with other related documents.

(2) To permit me to appoint Advocate to represent on my behalf and permit to plead legal plea on my behalf.

(3) To issue summons to the Petitioner in order to attend before the Hon'ble Speaker or Committee for cross-examination on the basis of verification affidavits and petition filed by the petitioner.

(4) To permit examining witnesses on my part and further permit to mark the documents through such witnesses as exhibits and

(5) To dismiss the present petition filed by the petitioner since the same is not maintainable and beyond the Speaker's jurisdiction to entertain the same."

8. After the receipt of the above interim replies, I had considered the request made by the Respondents and had granted them time till 5th September 2017 to file their final replies and had directed them to be personally present before me to represent their case under Rule 7(7) of the Rules on 7th September 2017 to make their submissions. I had also caused the service of the comments dated 30th August 2017 received from the Leader of the Legislative Party on the Respondents on 3rd September 2017.

9. Thereafter, the Respondents had filed identical replies/comments which were in effect detailed submissions made by them in addition to the replies given by them on 30th August 2017. In the said replies/comments filed by the Respondents, following submissions were made:-

i. In addition to the submission made in the interim reply, the Respondents claimed that I am constitutionally disqualified to adjudicate the dispute and that I should refer the dispute to a Committee under Rule 7(4) of the Rules. In support of this submission, they relied on the judgment of *Dr. Wilfred D' Souza and others vs. Shri Tomazinho Cardozo Hon'ble Speaker of the Legislative Assembly and Others reported in 1991 1 Bom CR 594.*

ii. There is a glaring proof for my personal malafides inasmuch as I had not taken action against Thiru O.Paneerselvam and 10 other MLAs of AIADMK Party on the straight forward disqualification namely voting against the Government trust vote violating the Whip issued by the same Petitioner. A further allegation has also been made that I am colluding with the Hon'ble Chief Minister and others in the party and try and bring the said 11 MLAs back to the fold even though their disqualification is proven on the face of the record.

iii. After confirming that the 19 Respondents had indeed given a representation before the Hon'ble Governor, I have been acting in haste without any reason.

iv. The Respondents have stated that they were out of station till 4th September 2017 and had got to know about the comments given by the Leader of the Legislature Party only when they visited their Counsel and that they could not give a complete reply to the same. They further deny the contents of the comments given by Thiru Edappadi K.Palanisamy and had questioned the comments. According to them, the comments were only to cover up the lacunae in the Petition filed by Thiru S.Rajendiran.

v. According to the Respondents, they had met the Chief Minister between 14.6.2017 and 19.7.2017 to sort out their grievances, but he had not allocated time for them.

vi. That the Respondents wanted sufficient time to reply to comments from the Chief Minister and had therefore prayed for the following:

"(6) To furnish the copy of the letter sent to the Hon. Chief Minister Mr. Edappadi K. Palanisamy from the Secretary, Legislative Assembly.

(7) To direct the Hon. Chief Minister Mr. Edappadi K.Palanisamy to furnish copies in order to prove the invitations which were alleged to be served on me inviting to attend Legislature party meetings held after 22-8-2017.

(8) 15 days time to submit my final reply on furnishing of the above documents.

(9) Permit to have the enquiry before the Committee under rule 7(5) as per the Anti Defection Law."

10. Along with the individual replies/comments, there was also a common Petition filed on behalf of the Respondents by their Advocate. In the said Petition, the Learned Advocate had sought for 15 days time for giving their final reply and thereafter fix a time for personal hearing of the Respondents through their Counsel on proper intimation.

11. After the receipt of the said comments and petition on 5th September 2017, I had adjourned the personal hearing fixed for 7th September 2017 to 14th September 2017, eventhough I had called upon the respondents to make their final submissions at that point of time and had accordingly directed notices to be issued to the Respondents. In the said notice, I had also made it clear that further comments if any in writing can also be furnished at the time of personal hearing. I had also indicated that in the event if they failed to appear in person, it would be presumed that they have nothing further to offer on the issue and that a decision would be taken based on the available records.

12. After the said notice sent from my office, one of the 19 Respondents i.e. the 17th Respondent viz. Thiru S.T.K.Jakkaiyan had met me in my office on the same day and had handed over a letter of the same date. In his letter, he has stated that he was pressurized into submitting the representation dated 22nd August 2017 before the Hon'ble Governor and that he had realized that the same was a mistake and not a voluntary act and he is seeking to withdraw the same from the Governor. He had also revoked the vakalat issued by him to his Advocate and had also withdrawn the reply statements submitted by him on 30th August 2017 as well as on 5th September 2017.

13. On 14th September 2017, when the personal hearing was fixed, only two of the Respondents had appeared before me, one being Thiru S.T.K.Jakkaiyan and other being Thriu P.Vetriivel, the 9th Respondent. The Learned Advocate who had filed Vakalat for the Respondents had also appeared along with Thiru P.Vetriivel. In fact, Thiru P.Vetriivel was present before me at 10.00 A.M. and had submitted that the other Respondents would be coming over by around 12.30 P.M. Accordingly, I deferred the personal hearing for the Respondents to be present. However, Thiru P.Vetriivel had alone appeared along with the Learned Advocate at 1.15 p.m. The Learned Advocate had filed a memo withdrawing the vakalat filed by him for Thiru S.T.K.Jakkaiyan. In the said memo, the Learned Advocate had also said that he continues to appear for the other 18 Respondents. Along with the memo, a Petition was filed which was signed by the Learned Advocate and Thiru P.Vetriivel and separate identical Second Reply/Comments were filed on behalf of each of the 18 Respondents.

14. In the Second Reply/Comments, each of the Respondents have prayed for further time for their personal hearing and had claimed that their letter to the Hon'ble Governor on 22nd August 2017 was on the instructions of their Party Deputy General Secretary Thiru T.T.V.Dhinakaran. Further, in the said reply the Respondents had claimed that since the documents that were sought by them were not furnished, they cannot go ahead with the hearing and that they were not satisfied with the reason given by my office on 7th September 2017 and they had accordingly sought for the following:

- *To furnish the required documents as cited in my individual reply dated 05.09.2017 and my Counsel's Petition dated 05.09.2017*
- *To give 5 days time from the date of receipt of the copies of documents to me, enabling me to file my final reply.*
- *Thereafter to fix the date for my personal hearing after filing of my final reply.*
- *Till then adjourn my personal hearing from 14.09.2017 to some other date for the above bonafide reason and thus render justice.*

15. In the Petition signed by the Learned Advocate and the 9th Respondent, the Respondents had sought for the following:

i) To furnish the above cited documents

ii) To permit the Respondents to conduct cross examination of the Petitioner

iii) To examine the Respondent's side witnesses

iv) To cross examine the Hon'ble Chief Minister of Tamil Nadu Mr.Edappadi K.Palaniswami before the Committee

v) To refer the matter to the Committee

vi) To provide appropriate and adequate police protection to the Respondents through Karnataka Police to attend the personal enquiry from Kudagu of Karnataka with to and flow police protection on any date with 5 days prior intimation after the above said prayers 1, 2, 3, 4 and 5 as convenient to the Hon'ble Speaker and thus render Justice.

16. The 17th Respondent appeared before me on 14.09.2017 at 10-47 AM and had made his submissions and had also filed a letter with me. I shall discuss the contents and the submissions while dealing with the same.

17. All the above mentioned pleadings along with the annexures thereof have been perused by me. After considering the entire pleadings and annexures, I am of the opinion that I should proceed to decide on the matters in two parts- I. Concerning Respondents 1-16, 18 and 19 and II. Concerning 17th Respondent.

I. Concerning Respondents 1-16, 18 and 19:

Admitted Facts and Issues:

18. The admitted facts as deduced from the pleadings are stated herein below:

- that all the respondents have got elected to the Tamil Nadu Legislative Assembly as candidate of a political party AIADMK and they claim to belong to that political party.
- that the petitioner is also elected as Member of the Legislative Assembly as a candidate of AIADMK and was appointed as Chief Government Whip on 25th May, 2016 in S.O. (Ms) No.69 as per Annexure I, Ex.R1, to the interim reply filed by the respondents.
- Thiru. Edappadi K. Palanisamy was sworn in as Chief Minister by an unanimous resolution passed on 14-2-2017 by AIADMK Legislature Party Members.
- that on 22/08/2017 the respondents had met the Hon'ble Governor of Tamil Nadu and submitted individual letters requesting his intervention and to institute Constitutional process as a Constitutional Head of the State;
- that in the representation given by the respondents herein to the Hon'ble Governor, they had expressed lack of confidence against the current Chief Minister;

19. From the pleadings and documents filed and based on the admitted facts, the issue that requires determination in the present petition is — Whether the respondents have committed acts that would necessitate me to declare disqualification of them as the Members of the Legislative Assembly for having voluntarily given up the membership of their party?

20. In answering this main issue, there are a several preliminary questions that I have been called upon to answer by the respondents. Some of these preliminary questions are as follows:-

(1) Whether I would have jurisdiction to determine the petition for disqualification on the ground of defection, as conferred upon me as Speaker of the Tamilnadu Legislative Assembly, under Tenth Schedule to the Constitution?

(2) Whether I have acted with malice or bias and therefore am disqualified to try the petition?

(3) Whether the petitioner was entitled to prefer the petition in this regard?

(4) Whether sufficient time has been given to the Respondents to put forward their case?

(5) Whether an opportunity to cross-examine the petitioner is to be given to the respondents and should any further documents be given to them?

Brief note on the proceedings:

21. Before going into the preliminary issues, in view of the various case laws referred to by the respondents and the law to the extent, I have read on the subject, I think it is necessary that I make an opening note on the nature of the proceedings before me.

22. The present proceedings before me are under the Tenth Schedule of the Constitution and as such these are proceedings under Article 212 of the Constitution of India [Paragraph 6 (2) of Tenth Schedule] . For the sake of ready reference, Article 212 of the Constitution is extracted below for the sake of convenience.

> *"Courts not to inquire into proceedings of the Legislature – (1) The validity of any proceedings in the Legislature of a State shall not be called in question on the ground of any alleged irregularity of procedure.*
>
> *(2) No officer or member of the Legislature of a State in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business, or for maintaining order, in the Legislature shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers"*

23. I am also aware that even though it is a proceeding under Article 212 of the Constitution of India, my decision would be called to question before the Hon'ble Courts and it is for this reason that the Respondents have also repeatedly referred to several judgments in their pleadings. In any case, since it is proceedings as mentioned in Article 212 of the Constitution of India, the extent of procedural compliances required cannot be equated to those that are required when a matter is being taken up by a judicial forum. This is not to say that I have failed to comply with any procedure. I am referring to the said Article only to state that the Respondents in the name of procedure are seeking for strict compliance with Section 65 B of the Evidence Act, Civil Rules of Practice and Code of Civil Procedure. I am of the opinion that the proceedings before me need not be in strict compliance of the above and it is only necessary that I ensure compliance with the Rules of natural justice and fair play.

Preliminary Questions:

Whether I would have jurisdiction to determine the petition for disqualification on the ground of defection, as conferred upon me as Speaker of the Tamilnadu Legislative Assembly, under Tenth Schedule to the Constitution?

24. As regards the issue relating to my jurisdiction to entertain the petition is concerned, I derive the same from the Tenth Schedule itself. Further the said Rules framed under the powers conferred under Paragraph 8 of the Tenth Schedule to the Constitution of India for the Legislative Assembly also provides the specific powers. Rule 6 relates to the petitions which reads as follows:

"6 . References to be by petition.

(1) No reference of any question as to whether a member has become subject to disqualification under the Tenth Schedule shall be made except by a petition in relation to such member made in accordance with the provision of this rule.

(2) A petition in relation to a member may be made in writing to the Speaker by any other member:

Provided that a petition in relation to the Speaker shall be addressed to the Secretary.

(3) . . ."

25. Therefore, a Member of the Legislative Assembly could be disqualified under Tenth Schedule if he has voluntarily given up the membership of the Political Party. An enquiry for disqualification on the ground of defection as envisaged under the Tenth Schedule of the Constitution of India and as per the Members of the Tamilnadu Legislative Assembly (Disqualification on ground of defection)Rules, 1986 on a petition in relation to a member could be made in writing to the Speaker by any other member.

26. In the decision of a Full Bench of the Punjab & Haryana High Court in **Prakash Singh Badal Vs. Union of India &Ors. [A.I.R. 1987 Punjab & Haryana 263]** it has been held that the Speaker gets jurisdiction to render a decision in terms of the Tenth Schedule to the Constitution of India on the question of disqualification upon a petition made by a person interested or a member. The Full Bench by a majority held:

"Under, para. 6, the Speaker would have the jurisdiction in this matter only if any question arises as to whether a member of the House has become subject to disqualification under the said Schedule and the same has been referred to him for decision. The purpose of requirement of a reference obviously is that even when a question as to the disqualification of a member arises, the Speaker is debarred from taking suo motu cognizance and he would be seized of the matter only when the question is referred to him by any interested person.

The Speaker has not been clothed with a suomotu power for the obvious reason that he is supposed to be a non-party man and has been entrusted with the jurisdiction to act judicially and decide the dispute between the conflicting groups. The other prerequisite for invoking the jurisdiction of the Speaker under para. 6 is the existence of a question of disqualification of the some member. Such a question can arise only in one way, viz., that any member is alleged to have incurred the disqualification enumerated in para 2(1) and some interested person approaches the Speaker for declaring that the said member is disqualified from being member of the House and the claim is refuted by the member concerned."

27. It is further contended by the respondents that the act of giving representation / letter to His Excellency, the Governor of Tamil Nadu was not within the jurisdiction of the Assembly as the same had taken place outside the Legislative Assembly premises (House). Nowhere in the Tenth Schedule to the Constitution or the Defection Rules, it has been mentioned that the cause of action for instituting the proceedings before me under Tenth Schedule should have occurred or commenced within the jurisdiction of the Assembly or the House. As can be seen in Tenth Schedule there are two instances for invocation of the proceedings one being after the vote and another being voluntarily giving up the membership-which can happen due to any incident outside the House as well. So, I hold that I have jurisdiction to entertain the petition on the facts and to adjudicate the same.

— Under the Tenth Schedule to the Constitution of India it is only the Hon. Speaker who has the power and jurisdiction to hear a complaint.

— In such circumstances the doctrine of necessity would apply.

Whether I have acted with malice or bias and therefore disqualified to try the petition?

28. In the pleadings of the Respondents, they seek to contend that I have acted with bias and my intentions were malafide. Further, they contend that I am not competent to hear the present matter. The Rules do not permit or require that the present issue is to be sent to the Committee. The mere allegation of bias, which is unsubstantiated, is to discredit me and preventing me from hearing the petition. The allegations are unsubstantiated. I have been in public life since 1972 and have been a Member of Legislative Assembly from 1977 on various occasions. Upon perusal of records there had been about 5 occasions in which proceedings under Tenth Schedule were conducted against the Members of this House. In all these proceedings, it is the Speaker who has conducted the same. In any event, the instances of bias according to the Respondents set out in the petition are relating to matters not germane or relevant to the present issue. In the present case, I am required to decide whether the respondents would attract disqualification and their act would amount to voluntarily giving up the Membership of the Party.

Whether the petitioner was entitled to prefer the petition in this regard?

29. The next issue to be decided is whether the petitioner could set the process in motion. The Rules clearly provide in 6(2), that a petition in relation to a member ought to be in writing, addressed to the Speaker and could be given by any other member. For the sake of convenience, the provisions of Rule 6 (2) is extracted below:

"A petition in relation to a member may be made in writing to the Speaker by any other member...."

30. As can be seen, it is not required that it should be only by the Whip of Political party. In any case, it has been admitted and seen from Annexure I referred to as Ex.R1 to the interim reply filed, the petitioner was appointed on 25/05/2016 as Chief Government Whip. No material contra has been placed before me by the Respondents to show that the Petitioner ceased to be the Chief Government Whip. In sofar as preferring a petition invoking the defection rules, it is sufficient if the Petitioner is a member of the present Legislative Assembly, which requirement the Petitioner satisfies and is uncontroverted by the Respondents.

31. Apart from the fact that Thiru S.Rajendiran is qualified to file the above Petition as a Member, the Respondents themselves, as mentioned above, admit that Thiru S.Rajendiran is the Chief Government Whip. It is the case of the Respondents that Thiru S.Rajendiran, as the Whip of the AIADMK Legislature Party had directed its members to vote in favour of the Government at the proceedings on 18th February 2017. The Respondents herein have admitted to have voted as per the said directions. At that time they did not take any objection to the effect that Thiru S. Rajendiran was not the Chief Government Whip. While so, it is now not open for the Respondents to claim that Thiru S.Rajendiran is not the Whip of the AIADMK Legislature Party. As per the records of this House, I have also verified and the records reflect Thriu S.Rajendiran as the Chief Government Whip. In such circumstances, the said objection raised is incorrect and I hold that the Petition filed by Thiru S.Rajendiran is maintainable.

Whether sufficient time has been given to the Respondents to put forward their case?

32. The respondents have filed their interim reply along with Vakalath and documents on 30th August 2017. In order that the Respondents be afforded a reasonable opportunity, further time upto 5th September 2017 to file final comments was given and I had called for the personal appearance of the respondents on 7.9.2017. However after the receipt of the said comments and petition on 5th September 2017, I had adjourned the personal hearing fixed for 7th September 2017 to 14th September 2017, at request and had accordingly directed notices to be issued to the Respondents. In the said notice, I had also made it clear that further comments if any in writing can also be furnished at the time of personal hearing. I had also indicated that in the event if they failed to appear in person, it would be presumed that they have nothing further to offer on the issue and that a decision would be taken based on the available records. Therefore I have given the respondents enough time to put forth their case. However the respondents have been raising one irrelevant technical plea after another which cannot go on forever.

33. In conduct of the proceedings before me, I am guided by the principle of natural justice, reasonableness and fair play. By way of affording them a reasonable opportunity and giving them sufficient opportunity to explain I had also permitted the respondents 7 days time to file further comments if they choose to do so. I have also permitted them assistance of a Lawyer as sought for by them.

34. In this case the disqualification has been sought under Section 2 (1) (a) of the Tenth Schedule to the Constitution of India. Elaborate recording of evidence is not required more particularly when the uncontroverted fact is that the Respondents had submitted a letter to the Hon'ble Governor of Tamilnadu mentioning that they lack confidence in the Chief Minister and seeking intervention and institution of Constitutional process.

35. In the decision of the Hon'ble Supreme Court in the case between **Mahachandra Prasad Singh (Dr.) vs Chairman Bihar Legislative Council reported in 2004 (8) SCC 747**; in para 15 therein it has been held

"15. It may be noticed that the nature and degree of inquiry required to be conducted for various contingencies contemplated by Paragraph 2 of the Tenth Schedule may be different. So far as clause (a) of Paragraph 2 (1) is concerned, the inquiry would be limited one, namely, as to whether a member of the House belonging to any political party has voluntarily given up his membership of such political party. The inquiry required for the purpose of clause (b) of P*aragraph 2 (1) may, at times, be more elaborate. For attracting clause (b) it is necessary that the member of the House (i) either votes or abstains from voting; (ii) contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf; (iii) without obtaining the prior permission of such political party, person or authority; and (iv) such voting or abstention has not been condoned by such political party, person or authority within fifteen days from the date of such voting or abstention. Therefore, for the purpose of clause (b), inquiry into several factual aspects has to be conducted. It may be noticed that clause (b) does not say that the prior permission has to be in writing and, therefore, it can be oral as well. Similarly, the manner in which condonation has to be expressed has not been indicated. Therefore, for holding that a member of a House has incurred a disqualification under clause (b) of Paragraph 2 (1) findings on several aspects will necessarily have to be recorded."*

36. In fact, the Supreme Court in Jagjit Singh Vs State of Haryana & Ors reported in (2006) 11 SCC 1 had held in para 13 and 14 of the judgment as follows:

13. The question whether reasonable opportunity has been provided or not cannot be put in a strait-jacket and would depend on the fact situation of each case.

14. At the outset, we may mention that while considering the plea of violation of principles of natural justice, it is necessary to bear in mind that the proceedings, under the Tenth Schedule, are not comparable to either a trial in a court of law or departmental proceedings for disciplinary action against an employee. But the proceedings here are against an elected representative of the people and the judge holds the independent high office of a Speaker. The scope of judicial review in respect of proceedings before such Tribunal is limited. We may hasten to add that howsoever limited may be the field of judicial review, the principles of natural justice have to be complied with and in their absence, the orders would stand vitiated. The yardstick to judge the grievance that reasonable opportunity has not been afforded would, however, be different. Further, if the view taken by the Tribunal is a reasonable one, the Court would decline to strike down an order on the ground that another view is more reasonable. The Tribunal can draw an inference from the conduct of a member, of course, depending upon the facts of the case and totality of the circumstances.

37. Bearing in mind the above legal precedents, I have afforded reasonable and sufficient opportunity to the Respondents.

Whether an opportunity to cross-examine the petitioner is to be given to the respondents and should any further documents be given to them?

38. The Respondents have also claimed that they would want to cross examine the Petitioner and the Chief Minister. As mentioned above, this is not a strict proceeding under Code of Civil Procedure or Criminal Procedure Code for cross examination to be permitted. This is a proceeding under Tenth Schedule of the Constitution and the Rules made thereof. In these proceedings, it is for the Petitioner to prove his claim regarding disqualification and for the Respondents to state their submissions in defence. This does not require any cross examination in my considered opinion. The proceedings can be based on the documents on record, none of which are restricted to the personal knowledge of the Petitioner or the Chief Minister. The Petitioner has filed two annexures – one being the letter given by the Respondent to the Hon'ble Governor as available with the Petitioner from the media and second being the newspaper items. The only other annexure is a DVD containing interviews by some of the Respondents regarding the meeting with the Hon. Governor and handing over representation. The comments from the Chief Minister do not contain any annexure. In such circumstances, I do not think there is a need for any cross examination of either of them. The Respondents have also sought in their reply for examining witness on their side. However, neither the name nor the identity of the witnesses had been revealed. In these proceedings the examination of witnesses would not be necessary. All that is required is consideration as to whether the available material itself would show whether or not the Respondents have voluntarily given up their membership of their Party. For the reasons mentioned and the explanations provided for all the above preliminary submissions, I am of the opinion that the prayers sought for by the Respondents seeking for documents and cross examination have to be dismissed.

39. Excepting for two Respondents, none of the Respondents, attended the personal hearing held on 14-9-2017. The others have not appeared in person before me. However, on behalf of others their Advocate has appeared before me. The Respondents have filed three sets of replies and two petitions. The Respondents have sought for certain documents to be furnished to them. These documents are (a) covering letter issued by my office to the Leader of the Legislative Party on 24th August 2017 and (b) the invitation sent by the AIADMK Legislative Party to its members to attend the meetings and the proof thereof. The document referred to in (a) is a notice pursuant to the provisions of Rule 7(3)(b) of the Rules which has to be issued calling for the comments, if any from the Leader of the Legislative Party to be submitted within 7 days. The said document is an internal office record and my office is under no obligation to provide the same to the Respondents. The Respondents need not even be served with copy of the comments issued under Rule 7(3)(b). However, in full compliance with the principles of natural justice, I had directed the same to be issued to the Respondents. The document referred to in (b) has not been filed in the present proceeding and therefore, the same cannot be given to the Respondents.

Prayers sought for by the Respondents:

40. The above findings would answer most of the prayers sought for by the respondents in their pleadings. These prayers in my Opinion are thoroughly misplaced and have been made with the intention to make the entire exercise look very technical.

41. The next relief sought for by the Respondent which is to be considered is whether to provide appropriate police protection to the Respondents through Karnataka Police to attend the personal enquiry from Kudagu of Karnataka with to and fro Police protection on any date with five days prior intimation. The Respondents have sought for the above prayer after I had considered their prayer regarding request for documents and examination of witnesses. I have already declined to grant the request for documents and examination of witnesses. The question of whether I can direct Karnataka State Police to give protection to the Respondents does not require any elaborate discussion. In this connection, it is sufficient to say as the Speaker of the Tamil Nadu Legislative Assembly, my powers begin and end within the Tamil Nadu. In any case, the issue of protection of any nature would arise only if the Respondents are keen on appearing in person before me. My finding on the said question would sufficiently answer this relief as well.

42. The only other relief sought for by them which is to be considered- which I have done so already, is whether I should be giving them more time to personally appear before me. As submitted above, at the personal hearing on 07.09.2017 and 14.09.2017, two of the 19 members appeared in person and their Advocate had been present in person. In fact, despite submitting a reply on 5.9.2017 seeking for more time, the 9th Respondent and the Advocate for the Respondents were present on 7.9.2017. I had given an opportunity for the Respondents to be present on 7.9.2017 as well as on 14.9.2017. Excepting the two Respondents, the other Respondents were represented only by their Counsel on the said dates. This is despite the fact that in the communication dated 7.9.2017, I had very specifically informed that in the event the Respondents choose not to appear the available records and pleadings would be taken into consideration and appropriate Orders would be passed. The Respondents have in fact signed the second reply on 14.9.2017 at Chennai, which only goes to show that they had chosen not to appear me in person even though they were in Chennai. In fact, on the one hand, they had sought for Police protection to travel from Kudagu in Karnataka and on the other hand, they have filed before me a Second Reply/Comments claiming to be in Chennai. After having given them two opportunities, I don't find a reason for me to give the Respondents further time to appear before me. I therefore

think it fit to decide the above Petition based on the available records and the submissions made thus far. In any case, the Respondents have filed detailed reply statements and had made elaborate submissions and as such cannot complain of any denial of opportunity by me.

43. In fine, I deny the relief's claimed for by the Respondents regarding furnishing of documents, examination of witnesses, police protection and extension of further time for personal hearing. Now, I shall proceed to deal with the only issue arising in the above Petition.

Issue raised in the present petition against Respondents 1-16, 18 and 19 as it stands now:

Whether the respondents have committed acts that would attract disqualification as the Members of the Legislative Assembly for having voluntarily given up the membership of their party?

44. The above mentioned issue is the only one raised in the case of the Respondents 1 to 16, 18 and 19. Before going into discussing the issues itself, I find it necessary to place on record certain facts.

45. The Respondents have all signed the vakalat dt.30th August 2017, an interim reply on the same day, reply/ comments on 5th September 2017 and Second Reply/Comments on 14th September 2017. All these pleadings are said to have been signed at Chennai. It is documented by the statements of some of the Respondents themselves that they were not in Chennai on the said days. In fact, the 9th Respondent in his Petition filed on 14th September 2017 seeking for Police protection has categorically sought for Police protection for the other Respondents to travel from Kudagu, Karnataka to Chennai. Further, even on 30th August 2017, the Respondents were present at Puducherry. The statements made by the 17th Respondent bears out this fact. Therefore, in my opinion all the Respondents have made false submissions before me. Yet another false statement made by all these Respondents is in their reply dated 5th September 2017 wherein, in Paragraph 14 they have claimed that due to continuous holidays they were out of station in order to attend the functions of the party cadres, relatives and friends. It has been the statement by the Respondents themselves that they have all been staying at Puducherry at that point of time. The respondents have therefore blatantly lied before me in the present proceeding. They are blowing hot and cold to suit their convenience.

46. The Respondents have raised several technical objections in the present proceedings. They have claimed that I have not issued Case number and that the proceedings are being conducted in a D.O. Letter number. The other objections include the validity of the alleged Representation made by them to the Hon'ble Governor on 22nd August 2017 and the evidentiary value of other Annexures. The other technical objections include the authority of Petitioner as a Whip and the need for cross examination in the present matter. While these objections are in any case incorrect, I would only wish that the Respondents had raised specific objections instead of relying on their technical prowess. The Tamil Nadu Legislative Assembly has so far conducted proceedings under Tenth Schedule only by referring to the Letter number and not by assigning any separate case number, which has been followed in the present case as well. The next technical objection regarding the validity of Annexure I filed with the Petition is again unwarranted. The Respondents have repeatedly admittedly that they had met the Hon'ble Governor and had given a Representation on 22nd August 2017 stating that they are withdrawing their support for the Chief Minister Thiru Edappadi K.Palanisamy. While on one hand, they admit to the letter, their objection is that the letter filed as Annexure I is not signed and does not contain the name of the person who has submitted it. The Petitioner had very categorically stated in this petition that he has received the said letter from the media. The Respondents in any case do not deny the existence of such a letter. Neither have they come forward with a different letter as the one submitted by them to the Governor. In such circumstances, based on the submissions of the Respondents themselves, I have to proceed on the basis that Ex P1 is that Representation which the Respondents have submitted to the Hon'ble Governor. During the personal hearing, the 17th Respondent admitted to the said Annexure being the representation submitted by them to the Hon'ble Governor. Therefore, this technical objection does not have any merit at all. I have dealt with in detail regarding the locus of the Petitioner to file the present petition and the objection raised by the Respondents has to be negated. Similarly, the repeated claim for cross examination in the present proceeding is also not warranted.

47. With the above facts in mind, I am proceeding to consider the Petition filed by Thiru S.Rajendiran. The Petitioner has submitted that the Respondents have met the Hon'ble Governor on 22nd August 2017 and have given a Representation withdrawing their support to the Chief Minister who was unanimously elected by the Members of the Legislature Party at the meeting held on 14th February 2017. The reasons stated in the representation to the Hon'ble Governor were that the Chief Minister had become corrupt and showing favoritism. The Respondents had in their representation sought for the Hon'ble Governor to initiate constitutional process as the Constitutional Head of the State. According to the Petitioner, the allegations in the letter to the Governor were false and the real intention behind the Representation was that Thiru O.Paneerselvam and Thiru K.Pandiarajan were inducted into the Cabinet. The real intention of the Respondents was manifest in the interviews given by them and they had made false Representation only to hide their ulterior motive, which was

to support Smt. V.K.Sasikala and Thiru T.T.V.Dhinakaran. The act of the Respondents according to the Petitioner was an act of voluntarily giving up the Membership of the AIADMK party and the Respondents, by acting against the decision of the Legislative Party have in fact gone away from the party ideals. Therefore deemed to have voluntarily given up their Membership of the party. While the Respondents have given several defences, their defence to this issue is that they have not voluntarily given up their Membership of the Party and that mere meeting with the Hon'ble Governor would not amount to giving up of Membership or defection from the party. According to them, their act is completely covered by the judgment of the Hon'ble Supreme Court in Balachandra L.Jarikholi & Others v. B.S.Yediyurappa & Others. (2011) 7 SCC 1.

48. There are decisions by the Hon'ble Supreme Court on the provisions of Tenth Schedule and the Rules framed there under by several Legislative Assemblies. I have taken this long time given to the Respondents to run through some of the important judgments passed by Supreme Court in respect to proceedings under the Tenth Schedule. From these, the basic understanding I have is that there are two circumstances mentioned under Paragraph 2 of the Tenth Schedule which would invoke the Defection Laws in respect of a Member of a Political Party. The first of it being voluntarily giving up Membership of the Political party to which the Member belongs to and the second one is in respect of voting contrary to any of the direction issued by the Political Party. In the present proceedings we are concerned only with the first scenario.

49. Before getting into the discussion on these, I find it necessary to understand the object of the Tenth Schedule. The same has been explained by the Hon'ble Supreme Court in Rajendra Singh Rana vs Swami Prasad Maurya reported in (2007) 4 SCC 270. Para 33 therein reads thus :

> *" 33. It may be true that collective dissent is not intended to be stifled by the enactment of sub-article (2) of Articles 102 and 191 of the Tenth Schedule. But at the same time, it is clear that the object is to discourage defection which has assumed menacing proportions undermining the very basis of democracy. Therefore, a purposive interpretation of paragraph 2 in juxtaposition with paragraphs 3 and 4 of the Tenth Schedule is called for. One thing is clear that defection is a ground for disqualifying a member from the House. He incurs that disqualification if he has voluntarily given up his membership of his original political party, meaning the party on whose ticket he had got elected himself to the House. In the case of defiance of a whip, the party concerned is given an option either of condoning the defiance or seeking disqualification of the member concerned. But, the decision to condone must be taken within 15 days of the defiance of the whip. This aspect is also relied on for the contention that the relevant point of time to determine the question is when the Speaker actually takes a decision on the plea for disqualification.*

50. It is the assertion of the Petitioner that the Respondents have voluntarily given up their Membership of the AIADMK Political Party. The reasons for the same as found in the Petition are (a) by making false allegations against the Chief Minister who was unanimously elected as the Legislature Party Leader, the Respondents are seeking to act against the unanimous decision of the Party (b) the Respondents have embraced a totally different ideology from that of the AIADMK Party by disassociating themselves from the decision of the Party (c) the Respondents having failed to approach either the Party organization or the internal mechanism of the Legislature Wing of the Party and have distanced themselves from the Party. To support the claim, the Petitioner has filed two documents, one being the Representation submitted by the Respondents to the Hon'ble Governor and the other being newspaper articles. The Petitioner has also filed a DVD containing certain interviews by some of the Respondents. Apart from the above referred documents, the Respondents have also filed several documents including a Letter dated 21.08.2017 issued by Thiru T.T.V.Dhinakran to all the MLA's of AIADMK (Amma). These documents are in addition to the pleadings made in the proceeding by the parties.

51. The Respondents have very categorically stated in their pleadings that they had met the Governor on 22nd August 2017 and have handed over a Representation that they do not have confidence in the Chief Minister Thiru Edappadi K.Palanisamy. They have also very categorically said in the said letter that they have not given up the Membership of their Party. The same submission has been repeated by them in their further pleadings. However, in the Second Reply/Comments filed on 14th September 2017, there is a letter dated 21st August 2017 issued by Thiru T.T.V.Dhinakaran. It is pertinent to mention that though the said letter is even prior to the Representation by the Respondents to the Hon'ble Governor, the said letter is produced for the first time only on 14th September 2017. In the said letter, Thiru T.T.V.Dhinakaran claiming to be the Deputy General Secretary of the Party has claimed that the Chief Minister Thiru Edappadi K.Palanisamy had acted against the policies of the Party and had joined hands with Thiru O.Paneerselvam and his group. According to the said letter, the Government headed by Thiru Edappadi K.Palanisamy was facing lots of corruption allegations and that majority of the AIADMK (Amma) MLAs had also expressed their displeasure against the Chief Minister Thiru Edappadi K.Palanisamy. Accordingly, he had instructed the MLAs to meet His Excellency the Governor of Tamil Nadu and to withdraw the earlier support given to Thiru Edappadi K.Palanisamy. As per the said letter, the same would ensure that a fresh Chief Minister is selected from the Party in order to run the Government in the interest of Public and complete the Legislative tenure.

52. This letter dated 21st August 2017 as mentioned above for the first time has been filed along with the Second Reply/Comments filed by the Respondents on 14th September 2017. According to the Respondents, it is submitted that based on the said letter, the Respondents had approached the Hon'ble Governor on 22nd August 2017. However, neither this letter dated 21.8.2017 nor the alleged intention of the majority of the Party MLAs is mentioned in the Representation given by the Respondents to the Hon'ble Governor. On the other hand, the Respondents had categorically sought for the intervention of the Hon'ble Governor to institute the constitutional process as the Head of the State. The Representation to the Hon'ble Governor is not based on the majority views of the Party MLAs, if so, the majority of the Party MLAs would have met the Hon'ble Governor and not 19 MLAs giving identical but individual Representations.

53. I have also looked into the comments dated 30th August 2017 filed by the Leader of the Legislature Party Thiru Edappadi K.Palanisamy. In the said comments, he has stated that the 19 Respondents have never approached him regarding their loss of confidence on him. He has also claimed that the aim of the Respondents was only to cause disruption to the Government. He has also said that excepting these Respondents, the other MLAs have reposed faith in him in the subsequent Legislative meetings. Further, he has submitted that the Respondents are hiding from public at large and are not attending Party meetings. The Respondents have sought for invitation sent by Thiru Edappadi K.Palanisamy for these meetings. While I find it not necessary to go into these details, I cannot lose sight of the fact that the 1st Respondent in the above proceedings had informed that the Respondents were called for meeting on 5th September 2017 for a Legislative Party meeting over telephone and that they had decided not to attend the same. The interview given by the 1st Respondent is part of public record and having made such statements in Public, I don't think the Respondent should deny such facts for the sake of denying. In any case, the letter given by the Respondents to the Hon'ble Governor was not on the basis that Thiru Edappadi K.Palanisamy had lost the majority of his Party MLAs. On the other hand, it was more on the question of corruption, favoritism and abuse of power.

54. The Respondents have claimed that they have repeatedly approached the Party Leadership and have specifically stated that they had approached Thiru Edappadi K.Palanisamy between 14.6.2017 and 19.7.2017 seeking for his time. However, the same was not allotted and that they had no choice but to approach the Hon'ble Governor. The submissions by the Respondents in this regard are in fact contrary to their own claims in their pleadings. On the one hand, the Respondents claim that they had met the Governor on 22nd August 2017 on the instructions of their alleged Deputy General Secretary while making allegation that the Party Leadership did not allot them time to meet. As members of the Legislative Assembly and as part of the AIADMK Legislature Party, the Respondents themselves had the right to call for a meeting of the Legislature Party and their claim that they were not able to reach any of the party high command is not believable. In fact, by claiming on one hand that they acted at the instance of the party and on the other hand that they are not part of the majority of the MLAs belonging to the party, the Respondents are only subscribing to the fact that they are not part of the party itself. The above discussions would only lead to the conclusion that the Respondents have in fact unidentified themselves with the AIADMK Party.

55. It is to be seen whether as admitted by the respondents, in their reply statements, addressing a letter to the Hon'ble Governor of Tamil Nadu, specifically stating that they have lost confidence in the Chief Minister of State, which act, according to them, has been done with conscious state of mind and purporting to be one as per the majority view of the party would amount to voluntarily giving up membership of the political party to which they belong. In more than one place in their written reply/comments filed in these proceedings they have admitted to the fact that a representation was given to the Hon'ble Governor of Tamil Nadu and the same was only against the Chief Minister and they have communicated lack of confidence in the Chief Minister. It has been further admitted by them that they had requested in their letter to the Hon'ble Governor of Tamil Nadu to institute the constitutional process as the constitutional head of the state. The Respondents herein only contended that the letter filed in Annexure I {Ex.P1} to the petition of the petitioner was not the exact letter they had lodged. They have not disputed handing over of a letter to the Hon'ble Governor. The Respondents herein had further in their reply gone ahead to validate their act and legalize the same. They have unequivocally admitted that the contents and substance of their letter was communicating the lack of confidence in the present Chief Minister and asking for setting the constitutional process in motion. In this background, it is to be seen whether the letter would amount to voluntarily giving up of the respondents' membership of AIADMK political party expressly or impliedly.

56. The respondents have categorically admitted to the fact of submission of a letter to the Hon'ble Governor of Tamil Nadu. All that they would plead is that they are protected under Article 19(1)(a) of the Constitution of India, Freedom of Speech and Expression, in submitting a petition to the Hon'ble Governor of Tamil Nadu communicating lack of confidence in the present Chief Minister would not amount to giving up of voluntarily membership of a political party. The Hon'ble Supreme Court in a decision reported in **1994 Sup (2) SCC 641 in the case between Ravi S Naik vs Union of India and others** considered the meaning and scope of the expression "voluntarily giving up his membership". It has been categorically held therein that the expression

"voluntarily given up membership" has a wider connotation. That even in the absence of a formal resignation from membership an inference can be drawn from the conduct of a member. Paragraph 11 reads thus:

> *"11.. . ..The words "voluntarily given up his membership" are not synonymous with "resignation" and have a wider connotation. A person may voluntarily give up his membership of a political party even though he has not tendered his resignation from the membership of that party. Even in the absence of a formal resignation from membership an inference can be drawn from the conduct of a member that he has voluntarily given up his membership of the political party to which he belongs."*

Thus, even in the absence of formal resignation from membership, inference can be drawn from the conduct of the member that he has voluntarily given up his membership of a political party to which he belongs.

57. Applying the said principle, from the facts of the case and the admission of respondents in their written comments, it is crystal clear that from their conduct they have voluntarily given up their membership of the political party, AIADMK, to which they belong. There could be no other inference that is possible from the following admissions in their interim reply:

"para 3: . . . . merely submitting a representation to the Governor that I have lost confidence in the Chief Minister of the State does not amount to resignation from my party.

Para 4: . . . . my representation was only expressing lack of confidence in the current Chief Minister, bearing the party's interest in mind. Therefore, the said representation can in no way be construed to be against the interests of the party, in fact the same has been done to safeguard and uphold the party's values and reputation.

Para 13: . . . .it is true that on 22.08.2017 myself and 18 other MLAs had met, His Excellency Governor of Tamil Nadu and submitted an individual letter to intervene and institute the constitutional process as constitutional head of the State.. . . the petition the said four page letter is not the exact letter I have lodged to, His Excellency, the Governor of Tamil Nadu.

Para 16/Para17 . . . . I further submit that only as per the majority view of the party, with conscious state of mind, I had submitted the Letter against the Chief Minister to His Excellency, the Governor of Tamil Nadu.. . ..I further submit that my representation to the Governor was only against the Chief Minister.

Para 22/Para 23: . . . With regard to the allegation that I failed to approach the party or the internal mechanism of the Legislative wing but directly approached the Governor amounts to voluntarily opting out of the party, is baseless and I deny the same.. . ."

58. In light of the facts and the respondents uncontroverted admission to have met the Hon'ble Governor of Tamil Nadu and submitted a representation communicating that they have lost confidence in the present Chief Minister clearly would attract Disqualification on the ground of defection. There is no necessity of investigating or examining any person when the respondents themselves unequivocally admitted that in conscious state of mind, they have submitted their representation. It is not their case that it was an act in furtherance of the decision or resolution of their political party. The submission of a letter as admitted by the Respondents cannot be an act in furtherance of the resolution/decision of their political party AIADMK. The party has not chosen to replace their Leader and hence there is no necessity for the respondents to make a representation to the Hon'ble Governor of Tamilnadu. In this regard there is no necessity for setting in motion the Constitutional process. By way of giving the respondents reasonable opportunity, time was afforded to place on record further explanation. All that is required to be determined in this case is whether the Respondents act of communicating by a letter to the Hon'ble Governor of Tamilnadu would amount to defection and voluntarily giving up of their membership to AIADMK party to which they were elected. It is crystal clear from their reply which stands uncontroverted or not withdrawn and in their further explanation or arguments that they have communicated that they had lost confidence in the present Chief Minister. The Respondents have admitted that they have given letter communicating lack of faith in the Chief Minister and seeking for institution of Constitutional process. Thus the contention that there was no specific overt act is incorrect and is hereby rejected. The Respondents in the interim reply are attempting to improvise their case by making mutually conflicting contentions.

59. After the respondents visited the Hon'ble Governor and gave him their representation on 22nd August 2017, the Leader of the Opposition, Thiru. M. K.Stalin had also paid a visit to the Hon'ble Governor and had sought for a test of majority for the AIADMK government on the ground that the 19 MLAs who are the respondents here had withdrawn their support to the Chief Minister. I cannot view this as an isolated act or an unconnected incident. It is quite evident that the respondents herein have deviated from their loyalty to their party and have voluntarily taken the side of an Opposition party. In my view even though the respondents have not submitted any letter of resignation to the AIADMK party and claim that they continue in the party, this act of them followed by the representation of the Leader of the Opposition cannot be lost sight of. It is quite clear from the sequence of events that the Respondents are acting in concert with the Leader of the Opposition Thiru. M.K. Stalin.

60. In fact, even when the Party had a General Council meeting, the Respondents had chosen to stay away from the said meeting with one of the Respondents herein i.e. the 9th Respondent approaching the Hon'ble High Court of Madras seeking an Injunction against the meeting. Therefore, the Respondents have chosen to keep themselves away from the Party and have distanced themselves from the decisions of the Party. Having distanced themselves from the party, it is not open for the Respondents to claim that they are acting as per the majority view in the Party. These facts lead to the conclusion that the Respondents have in fact moved away from the ideology of the Party and the Political Party itself.

61. In light of the above categoric admissions, the clear conduct of the respondents, in the facts and circumstances of the case and from the material on record, I have no hesitation in coming to conclusion that inference can be drawn that the respondents have voluntarily given up their membership of the Political Party, AIADMK. In fact, nowhere have they mentioned in their reply nor pleaded that their act of submitting representation to the Hon'ble Governor of Tamil Nadu expressing lack of confidence in their elected leader was a decision of the political party and their conduct was in furtherance of the same. At the best, it could be seen that the decision to submit the petition was only that of the said Members, who are respondents 1-16, 18 and 19 herein and cannot be the majority view of the members. The respondents categorically admit that they had sought intervention of the Hon'ble Governor of Tamil Nadu to set the constitutional process in motion expressing that they had lost confidence in Chief Minister [illegible]. The respondents have not produced any material to show that the party has decided or resolved to justify their act of communicating to the Hon'ble Governor of Tamilnadu, they have lost confidence in the Chief Minister. It is crystal clear that their act is unilateral and would amount to voluntarily giving up of the membership of the political party, AIADMK, to which they belong.

62. A futile attempt on the part of the Respondents that the Election Commission has passed an interim order restraining the use of the Party Symbol and Name simpliciter and the Petitioner having used the same, the petition suffers from infirmity would also not hold water. The petition filed before me is one for disqualification on the ground of defection. The Respondents have admitted in their reply that they have voted in favour of the resolution appointing Mr.Edapaddi K Palanisamy as the Leader of the party. Based on the same Mr.Edapaddi K Palanisamy was sworn in as a Chief Minister on 16.2.2017. Therefore in these proceedings I am required to determine whether the representation given by the respondents whether impliedly/expressly amounted to voluntarily giving up of his Membership of such a political party, which I have held against them.

63. The only question which remains to be answered in this regard is whether the Respondents can take shelter under the judgment of Hon'ble Supreme Court in Balachandra L.Jarikholi & Others vs B.S. Yeddiyurappa & Others reported in (2011) 7 SCC 1. The said judgment finds prominence in the submissions of the Respondents right from their representation to the Hon'ble Governor to all the reply statements given by them in the present proceeding. I always thought that precedents are taken help of when there arises a need to establish a similar act had been done before. But the manner in which the said judgment is being referred to by the Respondents gives me a feeling that they had first read the said judgment, decided that they will frame their letter to the Hon'ble Governor based on the said judgment and had then given the representations on those lines to the Hon'ble Governor. I have also read the said judgment and the said judgment refers to a dissent within a party as against a defection. The Order of the Hon'ble Speaker in the said judgment was set-aside since the Hon'ble Speaker had failed to follow all the procedures that are required to ensure fair play and the Order was based solely on documents which were not even given to the Members facing disqualification therein. However, in the instant case, the documents have all been given to the Respondents and the Respondents have been given more than an ample opportunity to put-forth their case. The Respondents have filed not one but three Reply statements along with documents on every given occasion and cannot have a complaint regarding lack of opportunity. Further, as observed above, the Respondents have not only identified themselves with an ideology different from that of their original party but have also aligned themselves against the Party and with the Leader of the Opposition. I cannot again lose sight of the fact that a Leader of the Opposition based on the representations of these respondents had immediately followed up a representation with the Hon'ble Governor seeking him to initiate the Constitutional process. This had not happened in the case so heavily relied on by the respondents. Therefore, the judgment heavily relied on by the Respondents in my humble opinion was on a different set of facts and the same cannot be relied for the present circumstances.

64. There are some more issues which are necessarily to be discussed. The Respondents have not been seen in public since 22nd August 2017 after their meeting with the Hon'ble Governor. While the Respondents have been silent about it in their reply, the fact that they have not been in public eye and they are presently at Kudagu, Karnataka (as per their own submission) clearly shows that they have distanced themselves from the party and have fallen to the control of persons outside their party. Further, the manner in which the 9th Respondent had approached the Court against his own Party's General Council Meeting and impleaded himself as a party to the Writ Petition filed by the Leader of the Opposition Party goes only to show that the Respondents are making efforts to align themselves with a Party other than the Party from which they were elected.

65. For the above mentioned reasons, I find that the Respondents 1 to 16, 18 and 19 in the above Petition have voluntarily given up their Membership of their Political Party and are therefore disqualified as a Member of the House in terms of Paragraphs 2(1)(a) of the Tenth Schedule of the Constitution of India read with Rule 8(1)(b) of the Members of the Tamil Nadu Legislative Assembly (Disqualification on Ground of Defection) Rules, 1986.

II. Concerning Respondent No. 17

66. As mentioned in the beginning of this Order, the case of the 17th respondent has had some additional facts and is to be delinked from the above findings. Hence I am addressing the same separately.

67. After filing of the two reply statements dated 30th August 2017 and 5th September 2017, the 17th Respondent presented himself before me on 7th September 2017 and had handed over me a letter stating that he was pressurized into submitting the Representation dated 22nd August 2017 before the Hon'ble Governor and that he had realized that the same was a mistake and is seeking to withdraw the same from the Governor. He had also revoked the vakalat issued by him to his Advocate and had also withdrawn the reply statements submitted by him on 30th August 2017 as well as 5th September 2017. Thereafter, at the time fixed for the 17th Respondent on 14th September 2017, he was personally present and he had once again submitted a letter to me. The contents of which are reproduced herein below:-

"14-9-2017

அனுப்புநர்

எஸ்.டி.கே. ஜக்கையன், ச.ம.உ.,
கம்பம் தொகுதி,
4/815–4, மகாலட்சுமி நகர்,
கண்ணனேந்தல் ரோடு,
அய்யர் பங்களா,
மதுரை 625 014.

பெறுநர்

மாண்புமிகு பேரவைத் தலைவர் அவர்கள்,
தமிழ்நாடு சட்டமன்றப் பேரவை,
சென்னை 600 009.

அய்யா,

வணக்கம். நான் உள்ளிட்ட 19 அஇஅதிமுக சட்டமன்ற உறுப்பினர்களும் 22–8–2017 அன்று மாண்புமிகு ஆளுநர் அவர்களைச் சந்தித்து அளித்த மனு தொடர்பாக நடவடிக்கை எடுக்கக் கோரி, 24–8–2017 ஆம் நாளிடப்பெற்ற திரு. எஸ். இராஜேந்திரன், அரசு தலைமைக் கொறடா அவர்கள் ஒரு கடிதம் கொடுத்துள்ளார்கள். அதுகுறித்து என்னிடம் தாங்கள் விளக்கம் கேட்டிருந்தீர்கள். அதன்பேரில் என் சார்பாக விளக்கமளிக்க நான் வழக்கறிஞர்களை நியமித்தும், 30–8–2017 மற்றும் 5–9–2017 அன்றும் இரண்டு விளக்கங்களை தங்களிடம் சமர்ப்பித்துள்ளேன்.

நான் ஏற்கெனவே 7–9–2017 அன்று தங்களை நேரில் சந்தித்து விளக்கமளித்ததோடு, எழுத்துமூலமாகவும் பதில் அளித்துள்ளேன். மாண்புமிகு ஆளுநர் அவர்களுக்கும் என்னுடைய கடிதத்தின்மூலம் நிலைமையை விளக்கி, நான் ஏற்கெனவே அளித்த மனுவினை திரும்பப் பெறுவதாகத் தெரிவித்துள்ளேன். அதன் நகலை தங்களின் பார்வைக்காக தற்போது வழங்குகிறேன்.

மாண்புமிகு திரு. எடப்பாடி கே. பழனிச்சாமி, முதலமைச்சர் அவர்களின் தலைமையிலான இந்த ஆட்சிக்கு என்னுடைய முழு ஆதரவையும், நம்பிக்கையையும் தெரிவித்துக்கொண்டு, தமிழக அரசின் அனைத்து நடவடிக்கைகளுக்கும் முழு ஒத்துழைப்பை நல்குவேன் என்கிற உறுதியை மீண்டும் அளித்து, ஏற்கெனவே தங்களிடம் நான் அளித்துள்ள கடிதத்தை ஏற்றுக்கொண்டு, என் மீதான மேல் நடவடிக்கையை கைவிடுமாறு பணிந்து கேட்டுக்கொள்கிறேன்.

தங்கள் உண்மையுள்ள,
ஒம்./–
(எஸ்.டி.கே. ஜக்கையன், சமஉ.)"

68. Along with the said letter, he had also handed over a copy of the letter dated 7th September 2017 sent by him to the Hon'ble Governor withdrawing his Representation dated 22nd August 2017. The contents of the said letter also are extracted below for the sake of convenience.

"7-9-2017

அனுப்புநர்

எஸ்.டி.கே. ஜக்கையன், ச.ம.உ.,
கம்பம் தொகுதி,
4/815–4, மகாலட்சுமி நகர்,
கண்ணனேந்தல் ரோடு,
அய்யர் பங்களா,
மதுரை 625 014.

பெறுநர்

மாண்புமிகு தமிழக ஆளுநர் அவர்கள்,
ஆளுநர் மாளிகை,
சென்னை.

மாண்புமிகு அய்யா அவர்களுக்கு வணக்கம்.

மாண்புமிகு புரட்சித் தலைவி அம்மா அவர்களின் மறைவிற்குப் பின்னர் மிகுந்த துயருற்று இருந்தேன். மாண்புமிகு புரட்சித் தலைவி அம்மா அவர்கள் உரைத்தவண்ணம் இந்த ஆட்சி இன்னும் 100 ஆண்டு காலம் தொடர வேண்டும் என்கிற எண்ணத்திலும், மாண்புமிகு அம்மா அவர்களின் வழியில் மாண்புமிகு திரு. எடப்பாடி பழனிச்சாமி அவர்களின் தலைமையில் தமிழக அரசு நடைபெற வேண்டும் என்றும் மிகுந்த எதிர்பார்ப்போடு 14–2–2017 அன்று அனைத்திந்திய அண்ணா திராவிட முன்னேற்றக் கழக சட்டமன்ற உறுப்பினர்கள் கூட்டத்தில் கலந்துகொண்டு ஒருமனதாக மாண்புமிகு திரு. எடப்பாடி பழனிச்சாமி அவர்களை சட்டமன்றக் கட்சித் தலைவராகவும், மாண்புமிகு முதலமைச்சராகவும் தேர்ந்தெடுத்தோம். இந்நிலையில் சரக்கு மற்றும் சேவை வரி, நீட் தேர்வு உள்ளிட்ட விவகாரங்களில் தமிழக அரசு மாண்புமிகு அம்மா அவர்களின் கொள்கைகளுக்கு மாறாக செயல்படுகிறது என்கிற காரணத்தைச் சொல்லியும், மாண்புமிகு திரு. எடப்பாடி பழனிச்சாமி அவர்களும், மாண்புமிகு திரு. ஒ. பன்னீர்செல்வம் அவர்களும் இணைந்துவிட்டனர், இனி மாண்புமிகு திரு. எடப்பாடி பழனிச்சாமி அவர்களின் தலைமையிலான அரசு ஊழல் அரசாக மாறிவிடும் என்றும், தொடர்ந்து அ.இ.அ.தி.மு.க. ஆட்சியே நீட்டிக்க வேண்டுமென்றால் மாண்புமிகு திரு. எடப்பாடி பழனிச்சாமி அவர்களின் தலைமை மாற்றப்பட வேண்டும் என என்னை வலியுறுத்திக் கேட்டுக்கொண்டதன் அடிப்படையில், 22–8–2017 அன்று தங்களிடம் என்னுடைய கோரிக்கை மனுவை அளித்திருந்தேன். அப்போதும் எனக்கு கடிதம் கொடுத்ததில் உடன்பாடு இல்லாமல்தான் இருந்தேன்.

பாண்டிச்சேரியிலே ஒரு விடுதியிலே நான் தங்கி இருந்த நேரத்திலே, தொலைக்காட்சியிலே நடைபெற்ற விவாதங்களை ஊன்றி கவனிக்கையில், எந்த அளவிற்கு மாண்புமிகு திரு. எடப்பாடி பழனிச்சாமி அவர்களுடைய தலைமையிலான அரசு மாண்புமிகு புரட்சித் தலைவி அம்மா அவர்களின் வழியில் பல்வேறு வலுவான நடவடிக்கைகளை எடுத்துள்ளதை அறிந்தேன். மேலும் என் தொகுதி மக்களும் தொடர்ந்து எனக்கு செல்லிடப்பேசியில் தொடர்பு கொண்டு தொகுதிப் பணிகளைக் கவனிக்க தொடர்ந்து வலியுறுத்தி வந்தனர்.

மாண்புமிகு புரட்சித் தலைவி அம்மா அவர்கள், தான் இறந்த பின்னும் இன்னும் நூறாண்டு காலம் அஇஅதிமுக தலைமையிலான ஆட்சி தொடர்ந்து செயல்படும் என்கிற வேதவாக்கினைச் சொல்லி மறைந்தார்கள். புதுச்சேரியில் நான் தங்கியிருந்த சமயத்தில் அங்கு நடைபெற்ற சில சம்பவங்கள், மாண்புமிகு அம்மா அவர்களின் ஆணைக்கு எதிராக இருந்ததை உணர்ந்தேன். வெளிப்படையாகச் சொல்ல வேண்டுமென்றால், என் கையைக் கொண்டே என் கண்ணைக் குத்திக்கொள்வதைப்போல, அஇஅதிமுக உறுப்பினர்களைக் கொண்டே, அஇஅதிமுக ஆட்சியைக் கவிழ்த்து, மாண்புமிகு புரட்சித் தலைவி அம்மா அவர்கள் காலமெல்லாம் எதிர்க்கட்சியாக கருதி வந்த திமுக தலைமையில் ஆட்சி அமைய உறுதுணையாக நிற்க உதவுகிற சூழ்நிலையைக் கண்டேன்.

கடந்த 22 ஆம் தேதி தங்களிடம் நான் அளித்த மனுவில் கையொப்பமிட வைத்ததற்கான காரணத்தையும், மாண்புமிகு பேரவைத் தலைவர் அவர்களிடத்தில் அதற்குப் பின் தொடர்ந்து நான் அளித்த விளக்கங்களுக்கான உண்மையான நோக்கத்தையும் அறிந்துகொண்டேன். மேலும், உண்மையான அஇஅதிமுக விசுவாசிகள் என்கிற போர்வையில், மாண்புமிகு அம்மா அவர்களின் கொள்கைகளைப் பின்பற்றி இந்த ஆட்சி தொடர வேண்டும் என்கிற எண்ணத்தை வலியுறுத்தி, அஇஅதிமுக தலைமையிலான ஆட்சியைக் கவிழ்க்க அஇஅதிமுக உறுப்பினரான என்னை ஒரு கருவியாக பயன்படுத்திக்கொண்டதை உணர்ந்து மிகுந்த வேதனையுற்றேன்.

எந்தக் காரணத்திற்காக மாண்புமிகு புரட்சித் தலைவர் அவர்களும் அயராது உழைத்தாரோ, எந்தக் காரணத்திற்காக மாண்புமிகு புரட்சித் தலைவி அம்மா அவர்கள் தன்னலம் கருதாது உழைத்து, தன்னுயிரை நீத்தாரோ, அந்தக் காரணம் குலையும் வண்ணம் நான் செயல்பட்டால் இவ்விருவருடைய ஆன்மா என்னை மன்னிக்காது,

தாங்கள்தான் உண்மையான அஇஅதிமுக விசுவாசிகள் என்று சொல்லி, உண்மைக்கு மாறான காரணங்களை என்னிடத்திலே சொல்லி, மாண்புமிகு திரு. எடப்பாடி பழனிச்சாமி அவர்களுக்கு எதிராக 22–8–2017 அன்று நான் அளித்த கோரிக்கை மனுவில் கையொப்பமிடச் செய்தனர்.

மேற்கூறிய காரணங்களுக்காக, 22–8–2017 அன்று நான் தங்களுக்கு அளித்த மனுவானது உண்மைக்கு மாறானது என்பதை உணர்ந்து திரும்பப்பெற்றுக்கொள்கிறேன்.

இக்கடிதத்தினை தாங்கள் ஏற்று, நான் ஏற்கெனவே அளித்துள்ள மனுவை திரும்பப் பெற்றுக்கொண்டுள்ளதாகக் கருதி அதன்மீது ஏதும் நடவடிக்கை எடுக்க வேண்டாம் என்று பணிந்து கேட்டுக்கொள்கிறேன்.

மேலும், மாண்புமிகு திரு. எடப்பாடி கே. பழனிச்சாமி அவர்களின் தலைமையிலான ஆட்சியின்மீது முழு நம்பிக்கை கொண்டுள்ளேன் என்றும், இந்த ஆட்சி தொடர அவருக்கு முழு ஒத்துழைப்பையும் அளிப்பேன் என்பதையும் இதன்மூலம் உறுதியாகத் தெரிவித்துக்கொள்கிறேன்.

தங்கள் உண்மையுள்ள,
ஓம்./–
(எஸ்.டி.கே. ஜக்கையன், சமஉ.)"

69. While the contents of the above letters are itself quite clear, I do not want to get into the allegations made by the 17th Respondent in his initial reply statements filed before me. Based on the submission made by the 17th Respondent during the personal hearing and also considering the fact that he has given the letters explaining the circumstances for his change of decision before the Hon'ble Governor and me, I am of the opinion that the initial circumstances which had prevailed for the issuance of the complaint by the Petitioner against this Respondent does not exist now. Further, this Respondent has stated while during his stay at Puducherry along with the other Respondents he was witness to such a situation wherein some of the members of AIADMK were trying to topple the AIADMK Government and thereby facilitating the main opposition party, viz., the DMK party to capture power.

70. In view of the statements of the Respondent No. 17, viz., Thiru. S.T.K. Jakkaiyan, MLA, I do not see the allegations made against him in the Petition as subsisting. Therefore, I hold that no further action needs to be initiated against the Respondent No.17, Thiru S.T.K.Jakkaiyan, M.L.A., Cumbum Constituency and accordingly dismiss the above Petition as against the 17th Respondent, viz., Thiru S.T.K.Jakkaiyan, M.L.A., Cumbum Constituency.

Conclusion:

71. In view of the statements of the 17th Respondent, as mentioned above, I do not see the allegations made against him in the Petition as subsisting. Therefore, I hold that no further action needs to be initiated against the Respondent Thiru S.T.K.Jakkaiyan M.L.A., and accordingly dismiss the above Petition as against the 17th Respondent.

72. Therefore in exercise of the powers conferred upon me by the Tenth Schedule of the Constitution of India, I, P. DHANAPAL, Speaker of the Tamil Nadu Legislative Assembly do hereby declare that, -

i) the following 18 members elected to the Tamil Nadu Legislative Assembly from the Constituencies mentioned against their names, namely,—

1. Thiru. Thangatamilselvan, M.L.A.,- Andipatti Constituency.
2. Thiru. R. Murugan, M.L.A.- Harur Constituency
3. Thiru. S. Mariappan Kennady, M.L.A.- Manamadurai Constituency
4. Dr. K. Kathirkamu, M.L.A.,- Periyakulam Constituency,
5. Tmt. C. Jayanthi Padmanabhan, M.L.A.,- Gudiyattam Constituency,
6. Thiru. P. Palaniappan, M.L.A.,- Pappireddipatti Constituency,
7. Thiru. V. Senthilbalaji, M.L.A.,- Aravakurichi Constituency,
8. Dr. S. Muthiah, M.L.A.,- Paramakudi Constituency,
9. Thiru. P. Vetriivel, M.L.A.,- Perambur Constituency,
10. Thiru. N.G. Parthiban, M.L.A.- Sholingur Constituency,
11. Thiru. M. Kothandapani, M.L.A.,- Thiruporur Constituency,
12. Thiru. T.A. Elumalai, M.L.A.,- Poonamallee Constituency,
13. Thiru. M. Rengasamy, M.L.A.,- Thanjavur Constituency,
14. Thiru. R. Thangathurai, M.L.A.,- Nilakottai Constituency,

15. Thiru. R. Balasubramani, M.L.A.,- Ambur Constituency,

16. Thiru. Ethirkottai S.G. Subramanian, M.L.A.- Sattur Constituency,

17. Thiru R. Sundaraj, M.L.A.,- Ottapidaram Constituency,

18. Tmt. K. Uma Maheswari, M.L.A.- Vilathikulam Constituency,

have incurred disqualification for being members of the Tamil Nadu Legislative Assembly under Article 191(2) of the Constitution of India, read with Clause (a) Sub-paragraph (1) of the Paragraph 2 of the Tenth Schedule. Accordingly, the above members cease to be members of the Tamil Nadu Legislative Assembly with immediate effect; and

ii) that the seats held by them in the Tamil Nadu Legislative Assembly shall thereupon fall vacant according to the provisions of Article 190(3)(a) of the Constitution of India.

Dated at Chennai this the 18th day of September 2017.

P. DHANAPAL,
Speaker,
Tamil Nadu Legislative Assembly.

Secretariat, Chennai-600 009,
18th September 2017.

K. BOOPATHY,
Secretary,
Tamil Nadu Legislative Assembly.

List of Exhibits

Documents filed by the Petitioner

1. Petition
2. Ex.P.1 Copy of letter given by the Respondents to the Hon'ble Governor of Tamil Nadu.
3. Ex.P.2 Articles in the News Dailies.
4. DVD

Documents filed by the Respondents:

1. Interim Reply Statements and Vakalats
2. Ex.R.1 Copy of Order in S.O.Ms.No.69 dated 25.5.2016 appointing the Petitioner as Chief Government Whip.
3. Ex.R.2 Copy of Order passed by Election Commission of India in Dispute Case No.2 of 2017
4. Ex R3 Petition for disqualification filed by four Respondents
5. Reply/Comments
6. Petition filed by Advocate on behalf of the Respondents
7. Ex R4- Letter from the Secretary, Tamil Nadu Legislative Assembly.
8. Ex-R5- Comments from the Leader of the Legislature Party
9. Ex R6- Letter from 17th Respondent dated 07.09.2017
10. Ex R7- Letter from 17th Respondent dated 14.09.2017 along with copy of letter to Hon'ble Governor dated 07.09.2017
11. Second Reply/Comments filed by Respondents 1-16, 18 and 19
12. Petition filed by 9th respondent and the Advocate
13. Memo/Letter filed by the Advocate
14. Ex R8-Copy of Petition filed by the Advocate for the Respondents
15. Ex R9-Letter from Thiru TTV Dinakaran dated 21.08.2017 to all MLAs.

Other Documents

1. Comments received from the Leader of the AIADMK Legislature Party

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